

that you want, the more likely TVA will be able to locate those records in response to your request. If TVA determines that your request does not reasonably describe records, it shall tell you either what additional information is needed or why your request is otherwise insufficient. TVA shall also give you an opportunity to discuss your request so that you may modify it to meet the requirements of this section. If your request does not reasonably describe the records you seek, the agency's response to your request may be delayed.

(c) *Agreement to pay fees.* If you make a FOIA request, it shall be considered an agreement by you to pay all applicable fees charged under § 1301.11, up to \$25.00, unless you seek a waiver of fees. TVA's FOIA Officer will confirm this agreement in an acknowledgement letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

[64 FR 4044, Jan. 27, 1999, as amended at 65 FR 16513, Mar. 29, 2000]

1301.4 Responsibility for responding to requests.

(a) TVA's FOIA Officer, or the FOIA Officer's designee, is responsible for responding to all FOIA requests. In determining which records are responsive to a request, TVA will include only records in its possession as of the date the request is received by the FOIA Officer. If any other date is used, the FOIA Officer shall inform the requester of that date.

(b) *Authority to grant or deny requests.* TVA's FOIA Officer, or the FOIA Officer's designee, is authorized to grant or deny any request for a TVA record.

(c) *Consultations and referrals.* When the FOIA Officer receives a request for a record in TVA's possession, the FOIA Officer shall determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA and, if so, whether it should be disclosed as a matter of administrative discretion. If the FOIA Officer determines that TVA is not best able to process the record, the FOIA Officer shall either:

(1) Respond to the request regarding that record, after consulting with the

agency best able to determine whether to disclose it and with any other agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the agency that originated the record (but only if that agency is subject to the FOIA). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether to disclose it.

(d) *Notice of referral.* Whenever TVA refers all or any part of the responsibility for responding to a request to another agency, it ordinarily shall notify the requester of the referral and inform the requester of the name of each agency to which the request has been referred and of the part of the request that has been referred.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals will be handled according to the date the FOIA request initially was received by the FOIA Officer, not any later date.

(f) *Agreements regarding consultations and referrals.* TVA may make agreements with other agencies to eliminate the need for consultations or referrals for particular types of records.

§ 1301.5 Timing of responses to requests.

(a) In general, TVA ordinarily shall respond to requests according to their order of receipt and placement in an appropriate processing track, as follows:

(b) *Multi-track processing procedures.* TVA has established three tracks for handling requests and the track to which a request is assigned will depend on the nature of the request and the estimated processing time, including a consideration of the number of pages involved. If TVA places a request in a track other than Track 1, it will advise requesters of the limits of its faster track(s). TVA may provide requesters in its tracks 2 and 3 with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of TVA's faster track(s). When doing so, TVA may contact the requester either by telephone or by letter, whichever is most efficient in each case.

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(1) Track 1. Requests that can be answered with readily available records or information. These are the fastest to process. These requests ordinarily will be responded to within 20 working days of receipt of a request by the FOIA Officer. The 20 working day time limit provided in this paragraph may be extended by TVA for unusual circumstances, as defined in paragraph (c) of this section, upon written notice to the person requesting the records.

(2) Track 2. Requests where we need records or information from other offices throughout TVA, where we must consult with other Governmental agencies, or when we must process a submitter notice as described in § 1301.8(d), but we do not expect that the decision on disclosure will be as time consuming as for requests in Tract 3.

(3) Tract 3. Requests which require a decision or input from another office or agency, extensive submitter notifications because of the presence of Business Information as defined in § 1301.8(b)(1), and a considerable amount of time will be needed for that, or the request is complicated or involves a large number of records. Usually, these cases will take the longest to process.

(c) *Unusual circumstances.* (1) Where the time limits for processing a request cannot be met because of unusual circumstances and TVA determines to extend the time limits on that basis, TVA shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, TVA shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with TVA for processing the request or a modified request. As used in this paragraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular requests:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(2) When TVA reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated, as defined in § 1301.10(h). Multiple requests by a requester involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever TVA determines that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be sent to and received by TVA's FOIA Officer.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For

example, a requester within the category in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category in paragraph (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of receipt of a request for expedited processing, TVA's FOIA Officer shall decide whether to grant it and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted upon expeditiously.

§ 1301.6 Responses to requests.

(a) *Acknowledgements of requests.* On receipt of a request, the FOIA Officer ordinarily shall send an acknowledgment letter to the requester which shall confirm the requester's agreement to pay fees under §1301.10 and provide an assigned request number for further reference.

(b) *Grants of requests.* Ordinarily, TVA shall have twenty business days from when a request is received to determine whether to grant or deny the request. Once TVA makes a determination to grant a request in whole or in part, it shall notify the requester in writing. The FOIA Officer shall inform the requester in the notice of any fee charged under §1301.10 and shall disclose records to the requester promptly on payment of any applicable fee, if the fee is equal to or more than \$100. If the fee is less than \$100, the FOIA officer shall disclose the records along with a statement of the fee. Records disclosed in part shall be marked or annotated to show the amount of information deleted unless doing so would harm an interest protected by an applicable ex-

emption. The location of the information deleted also shall be indicated on the record, if technically feasible.

(c) *Adverse determinations of requests.* If TVA makes an adverse determination denying a request in any respect, they shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment. The denial letter shall be signed by the FOIA Officer or the FOIA Officer's designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by TVA in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under §1301.9 and a description of the requirements of §1301.9.

§ 1301.7 Exempt records.

(a) *Records available.* TVA's records will be made available for inspection and copying upon request as provided in this section, except that records are exempt and are not made available if they are:

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(ii) Are in fact properly classified pursuant to such Executive order;